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EDITORIAL NOTES

JUSTICE COURT PROCEDURE

THE article in this number of the Review by Mr. Herbert Harley of the American Judicature Society furnishes a timely criticism by an expert, on the organization of our judicial system. The muckraking magazine articles have failed to effect an improvement on account of the ignorant and misdirected character of the attacks. Their favorite theme has been the criminal law, yet in California, at least, the courts are working with reasonable rapidity in criminal cases and comparatively few appeals are taken. Strange as it may seem to the layman, appellate reversals are the exception. The real improvement in the

criminal law lies in the treatment of criminals after conviction. (See the article by Judge Craig, 2 Cal. Law Rev. 263.)

On the civil side the administration of the law is less satisfactory and in Justice Court procedure, the inefficiency is such as to prohibit a resort to it in cases of small claims. A debtor refuses to pay twenty dollars justly due. To compel payment by legal proceedings, the creditor must hire an attorney; the attorney must file a complaint; the defendant may demur; the demurrer must be formally set for hearing; after the ruling on the demurrer and notice thereof, the answer, usually written, is filed; if there are no more pleadings, the case must then be set for trial; after the trial and a decision the losing party may appeal to the Superior Court; there the case must be tried all over again; after the decision findings are prepared with the possibility of a motion for a new trial before the judgment becomes final; then the judgment must be collected—all for twenty dollars. Even the successful litigant must pay his own attorney and doubtless incurs other costs not recoverable. Several times the amount involved would not compensate the attorney for his work, especially when practical considerations are taken into account, such as delays due to congested calendars, absence of judges, other engagements of counsel, inability of witnesses to attend, etc., etc.

The great German jurist Von Ihering in his essay translated under the title "Struggle for Law" preaches eloquently the duty of vindicating one's right no matter how small the right or how great the cost; yet the man with a well filled purse may be pardoned if he declines to spend his money for such a useless proceeding as a Justice Court trial. To the poor man such a law is a mockery. The ineffectiveness of the courts has resulted in calling into existence other bodies to do their work. We have unofficial organizations like the Board of Trade, and state commissions like the Railroad Commission, Industrial Accident Commission, Immigration Commission, Labor Commissioner, etc. A letter to one of these commissions stating an abuse, sets the machinery of the state at work. A telephone message from the office of the Labor Commissioner beats all the Justices Courts in the state when it comes to collecting a laborer's wages expeditiously and without expense. Attorneys now advise clients to appear in person before these commissions, there being no need of a lawyer for small cases except when the question is one which it is desired to take up to the Supreme Court to establish a precedent. Experience has

shown how much real and substantial justice can be done in this informal way. It may be in time that we shall tire of the multiplicity of commissions and come back to the system of one court of general jurisdiction. If this is done, however, it will be a judicial tribunal with administrative assistants; a tribunal where the judge will act as mediator in small cases, will frame the issues and through his clerks, issue and serve all process and notices; a court where the poor man can get a judgment without the cost being more than the amount involved.